

REMARKS

Claims 1-16 are pending in this application and are subject to restriction under 35 U.S.C. § 121.

Restriction Requirement

In the present Office Action, restriction is required between the following groups:

Group I: Claim 1-6 drawn to products of the formulas I and II.

Group II: Claims 7-16 drawn to methods of use for products of the formulas I and II.

Applicants respectfully traverse the requirement for restriction and respectfully request reconsideration of the requirement itself.

According to MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05-§ 806.05(i)); and
- (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) to § 806.04(i), § 808.01(a), and § 808.02).

Applicants respectfully submit that Groups I-II should be rejoined because examination of compounds of the present invention and methods of using these same compounds would not impose a serious burden on the Examiner. For example, if the compounds of Group I are examined and deemed to be patentable, it follows that any method of treatment employing the same compounds are necessarily novel and unobvious. Accordingly, it would appear that examining all of the claims of Groups I and II in a single application would not be unduly burdensome. To be fully responsive, however, Applicants hereby elect the claims of group I while reserving the right to prosecute the claims of non-elected groups in future applications.

The Office Action also requires a species election of a single compound. Applicants elect as a species election, the compound of example 64, 4-[1-allyl-7-(trifluoromethyl)-1H-indazol-3-yl]benzene-1,3-diol. In this compound, R₂, R₃, R₄, R₆, R₇, R₈, and R₁₀ are hydrogen; R₁ is alkenyl; R₅ is hydroxy; and R₉ is trifluoromethyl. It is Applicants'

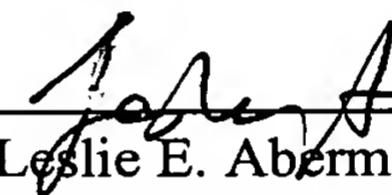
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understanding that this species election is being made to aid the Examiner in conducting a search and examination of the claimed subject matter, and is not to be construed as limiting the scope of Applicants' claims and that if the elected subject matter is found to be allowable over the prior art, the search and examination will be expanded to cover the full scope of the claims. It is also Applicants' understanding that they will be entitled, as a matter of right, to rejoinder of the process claims of Groups II, which depend from or otherwise include all the limitations of elected Group I. Claims 1-16 read on the elected species.

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. An early and favorable consideration of the present application is respectfully requested.

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